REMARKS

Reconsideration of this application is requested in view of the amendments to the claims and the remarks presented herein.

The claims in the application are claims 5 to 8, 15 and 16, all other claims having been cancelled.

All of the claims were rejected under 35 USC 112, second paragraph, as being indefinite. Claim 5 was deemed to be unclear in the expression "phase which is insoluble in telithromycin". Claim 15 was rejected as presenting improper Markush language and claim 16 was deemed to be unclear.

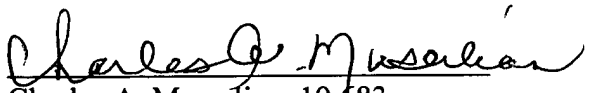
Applicants respectfully traverse these grounds of rejection since the amended claims are believed to be definite. Claim 15 has been amended to recite that the coating of the crystals is with a phase in which telithromycin is insoluble and from which the product progressively crystalizes. With respect to claim 15, the Examiner's suggestion has been adopted and with respect to claim 16, this is directed to a further layer of a polymer and we are not talking about preparing known capsules. Moreover, claim 16 has been amended to be consistent with the expression "microencapsulated". Therefore, the amended claims are believed to comply with 35 USC 112 and withdrawal of these grounds of rejection is requested.

Claim 15 was rejected under 35 USC 102(b) as being anticipated by Graul et al or Agouridas et al. The Examiner states the references teach the use of telithromycin to treat bacterial infections and the method of treating a bacterial infection using telithromycin in any form is not novel.

Applicants respectfully traverse this ground of rejection since Applicants' method has novel advantages not possessed by telithromycin crystals generally. As noted on page 2 of the application, the product has an unpleasant taste and therefore, Galenical forms must be produced which mask the taste of the product yet preserve a good bioavailability. Applicants' microencapsulation process permits the products to be administered without the unpleasant taste and therefore, the patients will take the same. Therefore, the product can be administered orally. This was not possible with the prior art products. Applicants' agglomerates did not exist at the time of the invention and therefore, the coated agglomerates did not exist either and they have the advantage of being able to be taken orally without the disadvantage of the bad taste. Claim 15 has been amended to more clearly bring this out and therefore, the references cited by the Examiner do not anticipate or render obvious Applicants' invention. Therefore, it is deemed that Applicants' process is novel and withdrawal of these grounds of rejection is requested.

In view of the amendments to the claims and the above remarks, it is believed that the claims clearly point out Applicants' patentable contribution and favorable reconsideration of the application is requested particularly since claims 5 to 8 and 16 were not rejected on prior art.

Respectfully submitted,
Muserlian, Lucas and Mercanti



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Enclosure